

COOK COUNTY SHERIFF'S MERIT BOARD

Sheriff of Cook County)	
)	
vs.)	
)	Docket # 1756
Kevin M. Alexander)	
Correctional Officer)	
Star #7210)	

DECISION

This matter coming on to be heard pursuant to notice before Kim R. Widup, Board Member, on August 28, and September 19, 2014, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

Kevin M. Alexander, hereinafter "Respondent," was appointed a Correctional Officer on February 7, 1994. Respondent's position as a Correctional Officer involves duties and responsibilities to the public; and

Each member of the Cook County Sheriff's Merit Board, hereinafter "Board", has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term; and

The Board has jurisdiction of the subject matter of the parties in accordance with Chapter 55 of the Illinois Compiled Statutes; and

The Respondent was personally served with a copy of the Complaint and notice of hearing and appeared before the Board with counsel to contest the charges contained in the Complaint; and

The Board has heard the evidence presented by the Sheriff and the Respondent and has evaluated the credibility of the witnesses and supporting evidence. After considering the evidence, the Board finds as follows:

Background

On October 28, 2012, the Respondent was assigned to the Kennel Unit of the Cook County Department of Corrections (CCDC), Chicago Animal and Control, 2741 S. Western Avenue, Chicago, IL (the kennel).

On September 28, 2013, the Respondent failed to properly supervise a detainee

work detail, which resulted in the escape of detainee [REDACTED] (also known as [REDACTED]).

On September 28, 2013 the Respondent's negligence and lack of supervision allowed detainee [REDACTED] to escape from custody and remain at large in the community for several hours, jeopardizing the safety of the citizens of Cook County. The Respondent failed to maintain visual supervision at all times of detainee [REDACTED] who was assigned to the work detail under his supervision.

On September 28, 2013, the Respondent and Correctional Officer (CO) [REDACTED] were assigned to the kennel. On that date the Respondent and CO [REDACTED] picked up 16 detainees from Division XI of the CCDC and preceded to the kennel. One of the detainees was [REDACTED]

On September 28, 2013, The Respondent and CO [REDACTED] were both aware that the kennel had an unsecure exit door directly adjacent to its locker room. Upon arrival at the kennel all 16 detainees, or work crew, were accounted for and changed from their brown CCDOC uniforms to orange jumpsuits and yellow boots. The work crew was allowed a break at 0850 hours and all 16 detainees were accounted for.

The Respondent and CO [REDACTED] broke the work crew into two groups of eight detainees each with each officer taking control of one group. [REDACTED] was in CO [REDACTED] group of eight detainees. The Respondent's group completed their cleaning responsibilities at approximately 1030 hours and the Respondent took all the detainees that had completed their cleaning responsibilities back to the locker room to change back into their CCDOC uniforms leaving CO [REDACTED] in another portion of the kennel with her group.

The Respondent and CO [REDACTED] failed to transfer the entire work crew of 16 detainees from the cleaning area to the locker room at one time. The Respondent and CO [REDACTED] allowed the detainees to walk to and from the cleaning area and the locker room without maintaining continuous visual contact with the detainees.

The Respondent and CO [REDACTED] failed to maintain visual contact with each other when the Respondent took the detainees into the locker room and failed to maintain visual contact with all 16 detainees in the work crew. Specifically, the Respondent and CO [REDACTED] failed to maintain continuous visual contact with detainee [REDACTED] when they split the work crew up.

The Respondent and CO [REDACTED] failed to properly position themselves within the kennel to maintain visual contact with all detainees at all times. The Respondent and CO [REDACTED] failed to properly position themselves within the kennel to prohibit [REDACTED] access to an unsecure exit door.

On October 4, 2013, Respondent was interviewed and provided a signed statement to investigators from the CCSO Office of Professional Review (OPR) and stated that some of the detainee crews had finished their work ready to change their clothes before going back to Division XI of the CCDOC. The Respondent stated that he met up with CO [REDACTED] and told her that he was going to the locker room to start having the detainees change their clothes.

The Respondent further stated to OPR investigators that he went to the locker room with the first group of detainees which included detainee [REDACTED]. Respondent stated that while the detainees changed he was standing by the sinks and the lockers in the locker room. The Respondent said that from his vantage point he could not see where the detainees would go after they finished changing and exited the locker room. He said that while he was in the locker room monitoring the detainees that were changing, CO [REDACTED] was in the hallway by the animal pavilions and she was monitoring the detainees that were still working.

The Respondent stated to OPR investigators that as the detainees finished working, CO [REDACTED] sent the detainees back to the Respondent and once a detainee finished changing the Respondent sent the detainee back to CO [REDACTED]. The Respondent told OPR investigators that the detainees would have to pass through a hallway that was not in his line of sight or that of CO [REDACTED] and that this hallway led to unsecured doors to the outside of the building.

The Respondent stated to OPR investigators that once the last of the detainees came to him in the locker room and finished changing, he walked to where CO [REDACTED] was standing and they conducted a count of the detainees. Respondent said the count revealed that detainee [REDACTED] was missing. CO [REDACTED] secured the remaining 15 detainees while the Respondent conducted an internal and external search of the premises. Once the Respondent completed his search he returned to CO [REDACTED] and reported that detainee [REDACTED] was gone and CO [REDACTED] contacted External Services.

On September 28, 2013, detainee [REDACTED] escaped custody while working at the kennel by exiting through an unsecure exit door. A video recording obtained from the kennel showed that on September 28, 2013, at approximately 1037 hours, an individual matching the description of [REDACTED] was walking through the east parking lot of the kennel.

On October 4, 2013, OPR investigators interviewed 11 detainees from the kennel work detail of September 28, 2013, who stated that the escape occurred at the end of the workday while some of the detainees were changing clothes. The detainees stated that the Respondent was in the locker room monitoring the detainees that were changing while CO [REDACTED] was in the animal pavilions watching the detainees who were still working and the detainees who had completed their change of clothing.

On October 4, 2013, [REDACTED] was interviewed by OPR and he stated that on September 28, 2013, at the end of the work detail when the other detainees went to the bathroom (locker room) to change he went the opposite direction into a hallway of newspapers, changed out of the work uniform and walked out the side door. [REDACTED] stated he briefly walked toward Western (Avenue) to check that there was no car for him then he turned around, decided to go back towards the rear, jumped a fence and began to work his way north from there - completing his escape.

By complaint dated April 11, 2014, upon a finding of guilt, the Petitioner sought the removal of the Respondent from employment with the CCSO.

Issues Presented

The Respondent was charged based on his actions detailed above with violations of the Rules and Regulations and General Orders of the Cook County Sheriff's Department of Corrections, specifically:

Sheriff's Order 11.4.1.0 Inmate Work Program, in its entirety, including, but not limited to, the following subparts:

II. Policy

It is the policy of the Cook County Sheriff's Office (CCSO) to adhere to set guidelines in selecting inmates on various details throughout the department. Inmate workers shall not be used for any function that affects the security operations of the department.

The inmate work program provides work opportunities for inmates. This plan includes a provision for disabled inmates to work and offers a variety of work assignments that afford eligible inmates an opportunity to develop good work habits and attitudes that can be applied to jobs after their release. Inmates are not required to work except to do personal housekeeping and to clean their housing area. Eligible inmates may volunteer for work assignments.

IX. Procedures

E. Responsibilities of the supervising officer

The supervising officer shall:

4. Maintain constant visual supervision of all inmates assigned to the work detail under their supervision at all times

General Order 4.1 Internal Investigations, in its entirety, including, but not limited to, the following subparts:

II. Requirements

A. Guidelines for Serious Misconduct include but are not limited to:

1. Negligence leading to an escape.

Sheriff's Order 11.2.20.0 Rules of Conduct, in its entirety, including, but not limited to, the following subparts:

VI. Rules and Regulations for All Sworn and Civilian CCSO Employees

E. Duty Functions

CCSO employees shall:

1. Maintain sufficient competence to properly perform the duties and responsibilities of their positions. Unsatisfactory performance shall not be allowed.
 - b. Unsatisfactory performance may be demonstrated by:
 - ii. A lack of knowledge of the rules and regulations of the CCSO;
 - iii. An unwillingness or inability to perform assigned tasks;
 - iv. The failure to conform to the work standards established for the employee's rank, grade or position.

Finally, the Respondent was charged with a violation of the Rules and Regulations of the Cook County Sheriff's Merit Board, specifically:

Article X, Paragraph B:

No Police Officer of the Cook County Sheriff's Police Department, Correctional Officer of the Cook County Department of Corrections, or any Deputy Sheriff of the Cook County Sheriff's Court Services Department shall:

3. Violate any of the General Orders, special orders, directives, or rules and regulations of the Cook County Sheriff's Office.

Findings of Fact

This matter was called for trial on August 28, and September 19, 2014, after the case was continued on several occasions based upon the needs of the Petitioner and/or the Respondent's request through counsel, and the completion of all discovery matters. At the trial, with a court reporter being present, all witnesses were sworn under oath. The Respondent did testify. During the trial documents were introduced by the Sheriff and the Respondent that were received into evidence. The Sheriff and Respondent made closings arguments addressing issues in the trial.

The first witness called by the Sheriff was the Respondent who was called as an adverse witness. He has been employed with the CCSO over 20 years with his last assignment being at B-4 before his suspension. Prior to that assignment he was assigned to the kennel unit for approximately 14 months. Initially, he was assigned to screening the inmates that were assigned to the kennel unit as part of a vetting process. Later he was part of the unit that took the inmates to the kennel for the work detail. He admitted that he was provided and was familiar with the general orders governing the conduct of CCSO. He stated that he was not familiar with the general order regarding inmate workers. He stated that he had 18 years of experience working in the central kitchen of the CCSO where they have only four inmates per officer. He stated that working with eight inmates per officer in the kennel was new to him. He added he never saw the general order for the kitchen. He went on to explain that in the central kitchen it was a secure environment whereas in the pound (kennel) it was an environment in an unsecured building with civilians and vicious animals present. His biggest concern was in the mixing of inmates and civilians, including females. He did agree that it was important to keep an eye on the inmates. He was asked if as a CCSO it was his duty to make sure that an inmate was always in his vision. He said, "Not in this situation. What you're saying is what you do in jail. We're talking about real time, real – real life scenario here. This is an environment that the Sheriff's Department has never been in before. This is not where we're going to the Cook County blue box and change on them, which then I would say, no problem, it's my fault. This situation, I'm supposed to trust my career to someone else who screened this gentleman and put him on my crew with this guy intent on escaping. So you're trying to say that no matter what, this guy could have come from Division 9, a murderer, I'm supposed to keep an eye on this guy constantly, that's why I'm – this is what I'm not getting and I'm trying to calm down." After an exchange with the prosecutor he was asked, so you are saying no, you were not able to maintain constant visual observance of all of the inmates that you had to supervise. The Respondent replied, "Well, on this particular day, I may not have been."

The Respondent said that he and CO [REDACTED] divided the inmates into two groups of eight and they each took one group to complete the kennel tasks. Initially, he said that inmate [REDACTED] was not part of his group of eight. His group completed their tasks ahead of CO [REDACTED] group so he took them into the locker room to change back into their CCDC uniforms. He also took part of CO [REDACTED] group that increased his total number to 10 inmates, he believed. He maintained a position at the doorway of the locker room and had part of his group change and the other part wait in the hall for their turn. He could see both groups and admitted he knew there was an unsecure exit door in the same area. He said that he knew the importance of not letting an inmate escape. At some point, after all the inmates had changed, they took a headcount and realized

that inmate [REDACTED] was not there. The Respondent conducted a search of the kennel while CO [REDACTED] remained with the rest of the inmates. [REDACTED] was not located so they called in the Chief of Security and others within the CCSO. The Respondent, CO [REDACTED] and the remaining inmates were instructed to go back to the "compound."

On cross-examination by his counsel the Respondent said that he had been in the military and he definitely had a good understanding of security protocols. He illustrated that the principal difference between his assignment in the central kitchen and at the kennel was that one was a secure environment and the other was not. The other difference was the number of inmates to guard's ratio. When at the central kitchen he said it was usually four inmates to each officer and at the kennel it was often times eight to one.

Upon agreement from the Respondent and the Petitioner, for efficiency of time, the Respondent's counsel began her direct examination of the Respondent. The Respondent described the working conditions of the kennel and the interaction with members of the kennel's staff. He also gave a detailed description of the locker room and the storage of tools and other items there. He further described the method of transporting the detainees to the kennel and requisition of vehicles that sometimes included a second vehicle as a "chase car." He further described the inmate vetting process that used to exist when he first started for the detainees who were selected to participate in the kennel program. The inmates selected would not have any detainers, leads or history of a violent background. If they did, they were not eligible for the program according to the Respondent. The Respondent claimed there was no SOP (Standard Operating Procedure) for this process but was the way he operated it. The Respondent said there was no SOP governing the kennel program and that he had received no training for the program, instead he learned through "practical application." The Respondent said that on the day of the escape there was only one van available for transport to the kennels so all 16 detainees were loaded in the one van. He drove and CO [REDACTED] followed in her personal vehicle as a "chase car" if necessary. He did admit on cross-examination that he did not inform OPR that CO [REDACTED] used her personal vehicle on the day of the escape. He claimed they had no radios available to them and their only form of communication was a personal cellular phone. The Respondent said there were usually four officers assigned to the kennel detail and that when everyone was present it was six officers; however, with the time off, illness and other causes there were times when it was only two officers available for the detail.

[REDACTED], Assistant Director, Cook County Department of Corrections, testified that he had ultimate oversight of the kennel program. He had an overall operational plan prepared for the kennel program (Exhibits 3 and 4) and put into effect. He said the Sheriff's personnel assigned to the program were there for the purposes that the tasks were completed and security of the inmates was maintained. He said Exhibits 3 and 4 were instructions on how to complete the tasks at the kennel. He stated that he had never received any complaints that there was not enough staff to run the program. He identified Exhibit 5 as the Sheriff's General Order that was in effect on the date of the escape and included the responsibilities of CCSO as being to "Maintain constant visual supervision of all inmates assigned to the work detail under their supervision at all times." [REDACTED] described a notification process that existed when an inmate escaped which was put into effect upon the escape of [REDACTED] from the kennel. [REDACTED] was apprehended after his escape.

On cross-examination [REDACTED] stated that he had drafted the original SOP for the kennel detail. The draft was finalized and distributed to all CCSO assigned to the kennel detail. He stated that he personally asked each officer assigned to the kennel program if they understood their responsibilities and had read the operating procedure. He further stated that he had spoke directly to the Respondent regarding the operation of the kennel program.

The Respondent raised an issue regarding the qualifications of inmate [REDACTED] being included in the kennel program because of his past criminal history; it was their position that [REDACTED] should not have been allowed to participate in the program. After a dialog between the Respondent and the Petitioner's counsel with the Board and its relevance to the Respondents conduct in this matter, the trial continued. The Respondent was answering to complaints of his violations of specific general orders and not the qualifications of [REDACTED] in the program.

[REDACTED], Investigator, OPR, was called and stated that he was the investigator assigned to investigate the matter involving the Respondent. He introduced photographs of the kennel and videos of inmate [REDACTED] on the outside of the kennel beginning his escape (Exhibits 6 and 7). Investigator [REDACTED] took a statement from the Respondent (Exhibit 2) regarding the events of September 28, 2013, including the escape of inmate [REDACTED]. Investigator [REDACTED] described the investigative process pertaining to the Respondent.

On cross-examination Investigator [REDACTED] described his methodology ion taking a statement from the Respondent to include providing the opportunity for the Respondent to make changes, additions or deletions to the statement. He said it was a summary and the Respondent signed and or initialed each page. If the Respondent chose not to accept what was written into the statement he could have refused to sign which he did not do. The statement was taken in front of the Respondent's union representative and another investigator was present for OPR. The Respondent did tell Investigator [REDACTED] that he had not received any SOPs regarding the kennel program.

By agreement between the parties, the Petitioner rested except for the calling of one witness who was not available. The Respondent began their case.

[REDACTED], former inmate, testified that the kennel detail was a sought after detail by the inmates and not one that the inmates wanted to disrupt by not following the rules. He was part of the first group to participate in the program. [REDACTED] admitted that even though he was a participant in the program he did have a "federal hold" on him for a pending federal criminal matter. He said the inmates received compensation of \$4 per day for participating in the program. He described the inmates participation in the program and stated it was one in which the inmates policed themselves. [REDACTED] said there was times the inmates were unsupervised by the CCSO and could have attempted an escape. These attempts could have made by going through one of the unsupervised and unlocked doors; although, no one did while he was in the program. He was not in the program the day that [REDACTED] escaped.

On cross-examination [REDACTED] offered more detail as to the working of the program and did state that they were always searched when the assignment was

completed. He stated while he helped in the selection of the inmates for the detail by gathering their IDs it was under the supervision of a CCSO. He emphasized being assigned to the kennel detail was good duty for an inmate.

██████████, Correctional Officer, CCSO, testified that he worked as part of the kennel program for two years. He was scheduled to work the day of the escape but did not because of medical. He said there were normally four officers that worked the kennel program each day but sometimes there were six. He said there could be a time when an inmate was unsupervised on the kennel detail but he never witnessed it especially on the changing process. As he would make sure that the door was propped open and then with one officer in the room and the other in the hallway there was nowhere for the inmate to go. He stated that he never saw a written SOP.

On cross-examination he stated the kennel duty was better then working the tiers.

██████████, Correctional Officer, CCSO, testified that he worked the kennel detail for about a year and only received minimal training. He did not receive any SOPs. No detainees attempted to escape while he was there and he had transferred to another assignment before the escape of ██████████. He stated that it was impossible to watch 16 inmates with only two officers.

The trial was adjourned to September 19, 2014, in order to produce some additional witnesses that were not available.

██████████, Correctional Officer, CCSO, testified that he was assigned to the kennel detail and described how the principal duty of an officer being assigned to the detail was to ensure that the detainees did not escape custody. He said no officers were supposed to leave the path to an unsecured door unattended. It was not uncommon to have two officers for 16 detainees with each officer taking eight each. The officers stayed with all 16 detainees until the work detail was completed and then they were escorted to the locker room to change into their normal clothing.

On cross-examination Officer ██████████ said the only training he received for the kennel detail was from other officers. There was no formal training or SOPs made available to them. He believed the detail was understaffed. Upon a question from the board, Officer ██████████ stated the principal duty of the CCSO was to maintain custody of the prisoners.

The Petitioner rested and after the denial of certain motions the Respondent continued their case.

██████████, Correctional Officer, CCSO, testified that she handled paperwork for the kennel detail. She typed the SOP for the kennel detail and knew that it existed and so informed OPR during her interview with them. She stated that Director ██████████ drafted the SOP and she typed it. She stated the SOPs were available to the officers assigned to the kennel but did not know if they were read or not.

Investigator ██████████, OPR, was recalled by the Respondent, and stated he prepared the report of investigation, but could not recall everyone he interviewed without

reviewing his report. He did not interview any detainees but was aware through the stipulated record that [REDACTED] had a criminal record. After a series of discussions by both counsels regarding certain objections his testimony was concluded.

The Respondent was recalled by his counsel and stated that he had a Loudermill hearing in order for the CCSO to decide if he could continue to work after the escape. The Respondent testified that he had prepared an incident report regarding the escape (Respondent Exhibit 6). The Respondent said that he had never been disciplined while with the CCSO. His counsel showed him documents where he was disciplined via a reprimand on two separate occasions for attendance issues but were not for misconduct. He was not cross-examined.

Decision

The Board finds by a preponderance of the evidence through the testimony of the witnesses and the supporting evidence that the Respondent was derelict in his duties that caused an inmate to escape from the custody of the CCSO. The Respondent did not maintain proper supervision of an inmate who escaped custody. The Respondent was derelict in his duties of not paying attention to the location of the inmate who escaped. He failed in his principal duty as a CCSO Correctional Officer, which was to maintain custody of the inmates assigned to him to control. While the Respondent's arguments that the environment he was placed in was notable because of the type of unsecure environment this program was in but it is not unique for a correctional officer. It was not a factor in his inability to perform his duties and it does not mitigate the charges. He did not raise objections of these environmental factors to his superiors before the inmates escape. The lack of a SOP or the failure to read such an SOP are also not persuasive mitigating factors in that his principal duties as a correctional officer are to maintain custody of the inmates in his care. All of these are in violation of standing General Orders and Sheriff's Orders.

Conclusions of Law

Based on the evidence presented and after assessing the credibility of the witnesses and the weight to be given the evidence in the record, The Board finds that Respondent Kevin M. Alexander, Star #7210, did violate Sheriffs Order 11.4.1.0, Section II and IX, E4; General Order 4.1, Section II, A1; Sheriffs Order 11.2.20.0, Section VI, E1, b-ii, iii, and iv; and Article X, Paragraph B of the Rules of the Cook County Sheriff's Merit Board.

Wherefore, based on the foregoing, it is hereby ordered that the Respondent Kevin Alexander, be and is separated from employment with the Cook County Sheriff's Office effective April 11, 2014.

[REDACTED]
James P. Nally, Chairman

[REDACTED]
Byron Brazier, Vice Chairman

[REDACTED]
Brian J Riordan, Board Member

[REDACTED]
John ~~M~~ Dalicandro, Secretary

[REDACTED]
Jennifer E. Bae, Board Member

[REDACTED]
Kim R. Widup, Board Member

[REDACTED]
John R. Rosales, Board Member

[REDACTED]
Vincent T. Winters, Board Member

Dated:

January 28, 2015